

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
UNITED STATES OF AMERICA	:	
	:	
-v-	:	19cr447 (DLC)
	:	
SADI FOFANA,	:	<u>ORDER</u>
	:	
Defendant.	:	
	:	
-----	X	

DENISE COTE, District Judge:

On February 5, 2020, Sadi Fofana appeared before this Court to answer for a number of violations to the terms of his probation. He was remanded to custody that same day. On March 16, Fofana filed a motion for bail, citing the risk of contracting COVID-19. The Court denied Fofana's bail motion on March 18 and his motion for reconsideration of that decision on March 30. On June 26, 2020, Fofana was sentenced to a term of imprisonment of one year and one day for the violations of the terms of his probation.

On August 17, Fofana filed a motion to modify or reduce his sentence pursuant to 18 U.S.C. § 3582(c)(1)(A). Fofana is twenty-five years old and is currently serving his sentence at the Metropolitan Correctional Center ("MCC"). The Bureau of Prisons ("BOP") projects that he will be released on December 11, 2020.

The Government does not dispute that Fofana has exhausted his available administrative remedies. Accordingly, Fofana's sentence may be reduced if, after consideration of the 18 U.S.C. § 3553(a) factors, a court finds that "extraordinary and compelling reasons" warrant such a reduction. 18 U.S.C. § 3582 (c)(1)(A)(i). Pursuant to the relevant United States Sentencing Guidelines Application Note, Fofana can demonstrate that extraordinary and compelling reasons justify relief if he has a "terminal illness" or a condition that "substantially diminishes" his ability "to provide self-care within the environment of a correctional facility." U.S.S.G. § 1B1.13, Application Note 1(A). Lastly, Fofana may show extraordinary and compelling circumstances if "there exists in the defendant's case an extraordinary and compelling reason other than, or in combination with, the reasons described" in Application Notes 1(A) through 1(C). U.S.S.G. § 1B1.13, Application Note 1(D).

Fofana's petition is denied. Fofana has not demonstrated that his release is warranted by extraordinary and compelling reasons or that consideration of the § 3553(a) factors weighs in favor of early release. Fofana asserts that his history of asthma constitutes extraordinary and compelling circumstances. In BOP health records, Fofana stated on February 19, 2020 that while he has a history of asthma, he "grew out of it" and last


used an inhaler a decade ago. There is no evidence that Fofana's condition has recurred, or that he requires treatment to manage it. That history of asthma does not constitute extraordinary and compelling circumstances warranting relief.

Consideration of the relevant § 3553(a) factors also counsels against a reduction of sentence. Fofana was sentenced to his current term of imprisonment after a lengthy series of violations of the terms of the probation, suggesting that a prison sentence was a necessary deterrent. More importantly, this Court has already considered the propriety of Fofana's incarceration in the context of COVID-19 and his history of asthma; it considered both in connection with the motion for reconsideration of his bail application. Then, like now, those considerations were not sufficient to overcome the need for a term of imprisonment. Accordingly, it is hereby

ORDERED that Fofana's August 17 motion for a reduction of sentence pursuant to 18 U.S.C. § 3582(c)(1)(A) is denied.

SO ORDERED:

Dated: New York, New York
September 9, 2020



DENISE COTE
United States District Judge